REMARKS

Claims 1-9 and 11 are in the application, with Claims 1 and 11 having been amended. Claims 1 and 11 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 101

Claims 1-9 and 11 are rejected under 35 U.S.C. 101 as allegedly directed to non-statutory subject matter.

It is believed that this rejection has been overcome by the above-indicated amendments to claims 1 and 11, whereby the claims now recite storing the database of the discrepancies in a computerized device that includes a processor, a communication device and a memory. (Support for these amendments is found, for example, at page 4, line 24 to page 5, line 9 of the specification of this application.) At least as now presented, the claims tie the recited process to another statutory class of subject matter, i.e., to an apparatus. In view of the above, it is respectfully requested that the Examiner reconsider and withdraw the rejection under § 101.

Claim Rejections – 35 USC § 103

Claims 1, 2, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. (U.S. Patent Application Publication No. 2002/0082991) in view of Nelson (U.S. Patent Application No. 6,032,132) and Pintsov (U.S. Patent Application Publication No. 2003/0036918).

This rejection is respectfully traversed for reasons that are set forth below.

Claim 1 is directed to a "method of identifying billing discrepancies". The method recited in claim 1 includes "receiving billing data from a billing entity", where the "billing data includ[es] an assessed fee and call details associated with each of a plurality of calls made by a customer". The method of claim 1 further includes "identifying, based at least in part on said call details received from said billing data, rate information associated with said customer" and "generating an expected fee for each of said plurality of calls". In addition, claim 1 recites

"comparing, for each of said plurality of calls, said expected fee with said assessed fee to identify discrepancies", "generating a database of the discrepancies", and "storing the database of the discrepancies in a computerized device that includes a processor, a communication device and a memory". Still further, claim 1 recites "running queries against call details associated with calls having discrepancies to determine whether overall charge for the calls having discrepancies varies based on length of each of the calls having discrepancies" and "characterizing at least one of the discrepancies as resulting from misapplication of a time dependent charge if a proportion of the discrepancies does not vary with length of the calls having discrepancies".

Applicants note with appreciation that the Examiner has withdrawn the previous rejection of claim 1, in which the Examiner relied on a combination of the Friedman and Nelson references. However, applicants respectfully submit that the present rejection, which relies on the Pintsov reference as well, is not correct, since in applicants' view the Pintsov reference does not contain sufficient disclosure to make up for all of the deficiencies that the Examiner now recognizes in Friedman and Nelson.

It seems to applicants that there are at least two deficiencies of Friedman/Nelson that the Pintsov disclosure fails to remedy.

First, the Examiner asserts that Pintsov teaches "run[ning] queries to determine whether there are discrepancies that vary based on the length of calls". In this regard the Examiner cites paragraph 0067 of Pintsov and specifically refers to Pintsov's mention of a "systematically observed difference".

Applicants note that the paragraph in question generally discusses comparing billing results obtained, respectively, by a customer's trusted self-billing system and by the utility company's (telephone company's) own billing system. The passage mentions that a "systematically observed difference" between the results obtained by the two systems may indicate that one of the two systems is not functioning properly. However, nothing in this paragraph or elsewhere in the reference contains any discussion or disclosure concerning discrepancies that vary based on the length of calls. Thus the reference does not actually appear to include the disclosure ascribed to it by the Examiner, does not fully support the Examiner's reliance thereon, and thus fails in at least this respect to compensate for deficiencies in the other references.

In addition, the Examiner cites the Pintsov reference as allegedly disclosing "characterizing one of the discrepancies as a misapplication of a time dependent charge". Applicants recognize that Pintsov's disclosure at paragraph 0077 of discrepancies arising from the customer's and the utility company's systems operating based on different rate plans may arguably be described as characterizing discrepancies as a misapplication of a time dependent charge. Nevertheless, and importantly, applicants observe that in purportedly applying Pintsov to the claim language, the Examiner failed to consider all of the relevant claim language. That is, not only does the claim recite characterizing a discrepancy as a misapplication of a time dependent charge, but the claim also specifies that such a characterization of the discrepancy is done on the condition that "the proportion of the discrepancies does not vary with length of calls having discrepancies". The Examiner evidently has failed to take into consideration this condition of the claim limitation. As a result the Examiner has not even asserted that the Pintsov reference supplies any disclosure of characterizing a discrepancy based on this condition. Nor, in applicant's opinion, does the reference contain this teaching. Accordingly, in this respect as well the Pintsov reference is inadequate to compensate for the deficiencies of the other references.

To summarize applicants' arguments with respect to claim 1, it is believed that the Pintsov reference is deficient in at least two respects relative to the Examiner's reliance thereon. In one respect, it seems to applicants that the Examiner has read into the reference teachings that it in fact does not contain. In the other respect, applicants believe that the Examiner did not consider the claim limitation in its full detail. Based on either or both of these shortcomings of the reference and the pending rejection of claim 1, applicants respectfully submit that the rejection should be reconsidered and withdrawn.

Claims 2-9 are dependent on claim 1 and are submitted as patentable on the same basis as claim 1.

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Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. in view of Nelson and Pintsov, and further in view of Zai (U.S. Patent Application No. 6,975,208).

As noted above, these claims are dependent on claim 1 and accordingly should be held to be patentable for the same reasons given above with respect to claim 1. However, applicants also wish to make additional remarks concerning the Examiner's rejection of claim 3.

Applicants note that the Examiner has amended his explanation of this rejection by excising his previous allusion to general knowledge in the art. Now apparently the Examiner relies upon Zai as supposedly suggesting that the difference between expected and actual billing amounts be looked at "to see if there is a consistent difference". Applicants respectfully submit that Zai's teaching do not support the Examiner's assertion in this respect. In its most nearly relevant aspect (Column 1, lines 21-31) Zai teaches billing for services with a combination of fixed and variable charges, but the reference makes no mention of either looking at expected and actual billing or looking for a consistent difference. Accordingly, applicants submit that there are substantial flaws in the rejection of claim 3, and that claim 3 is patentable on grounds independent of the patentability of claim 1.

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Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. in view of Nelson and Reding et al. (U.S. Patent Application No. 5,822,414).

Applicants continue to traverse this rejection.

Claim 11 is directed to a "method of identifying billing discrepancies". Claim 11 recites "receiving billing data from a billing entity", where the "billing data includ[es] an assessed fee and call details associated with each of a plurality of calls made by a customer". The method of claim 1 further includes "identifying, based at least in part on said call details received from said billing data, rate information associated with said customer" and "generating an expected fee for each of said plurality of calls". Still further, claim 11 recites "comparing, for each of said plurality of calls, said expected fee with said assessed fee to identify discrepancies", "generating a database of the discrepancies", and "storing the database of the discrepancies in a computerized device that includes a processor, a communication device and a memory". The final limitation of claim 11 recites "running a query to identify discrepancies of substantially a fixed amount to identify calls placed from a public pay phone".

Applicants will take this opportunity to continue the dialog with the Examiner over claim 11, in the hope that an impasse on this issue can be avoided.

In his discussion of claim 11 on page 11 of the current Office Action, the Examiner cites Reding's disclosure of a technique for reducing billing errors associated with pay phones. From this the Examiner concludes that it would have been obvious to modify Friedman/Nelson to identify discrepancies with pay phone calls. For the sake of argument, and for present purposes, applicants will consider this point to be well-founded. Nevertheless, the Examiner's reasoning, in applicants' view, does not carry him as far as is necessary to arrive at the invention as actually recited in claim 11. In particular, there is nothing in Reding that renders obvious the specific technique for identifying pay phone calls as recited in claim 11. Still more specifically, Reding fails to teach or suggest identifying discrepancies "of substantially a fixed amount" in order to identify pay phone calls. Thus this deficiency in Friedman/Nelson remains uncompensated for by Reding's teachings. Applicants therefore respectfully request that the Examiner give further consideration to claim 11, and withdraw the pending rejection thereof, since the combined teachings of the references are insufficient to arrive at the claimed invention in the full detail in which it is recited.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

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Date

/Nathaniel Levin/

Nathaniel Levin
Registration No. 34,860
Buckley, Maschoff & Talwalkar LLC
50 Locust Avenue
New Canaan, CT 06840
(203) 972-3460